cf. 1062 (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)

WRIT PETITION NO. 1938 OF 2004

BETWEEN

1. Smt. Jaswinder Kaur W/o Pyara Singh, aged about 42 years ,resident of B.M.Y. Charouda Bhilai District Durg (CG).

PETITIONER

AND

1. The State of Chhattisgarh,through the Secretary Department of Excise, Mantralay ,D.K.S.Building Raipur (CG).

2. Collector, Raipur, District Raipur.

RESPONDENTS

P.R. No. 1952/04 Presented by Manjeet Singh dated 8-7-04

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(23)

आदेश पत्रक

W.P.No. 1938/2004

मामला क्रमांक ..... सन् 200

विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

24-8-2004

Shri Yogesh Pandey, counsel for the petitioner.

Shri Bhaskar Pyasi, Panel Lawyer for the State/respondents.

Heard on admission.

The petitioner Smt. Jashwinder Kaur who claims to be owner of Truck having Registration No. M.I.S. 8199 has preferred this writ petition being aggrieved by the order dated 28.1.2002 passed by the Respondent No.2 Collector Raipur.

The brief facts leading to filing of this writ petition are that on 21.11.2001 on receiving the information from the reliable sources, the Station House Officer, Police Station- Khamtarai along with staff went on the ring road and started checking the trucks. During the course of that checking, Truck Nos. M.K.S. 8824 and M.I.S. 8199 were also checked and it was found that they were carrying 250 cartoons and 200 cartoons English wine respectively. As there was no permit for carrying the liquor the trucks were seized and the offence was registered at Crime No. 338/2001 and accused persons were arrested. Since the request was made for confiscation of the trucks and liquor, the proceedings were initiated before the Collector and in that preceding the petitioner herein filed an application for releasing the truck in question on supurdginama. Learned Collector vide impugned order directed for releasing of the truck on the conditions mentioned in the said order, one of such condition was to furnish bank guarantee for one year as per the

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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current valuation of the truck and the current valuation of the truck was left at the discretion of the R.T.O.

Learned counsel for the petitioner submits that this order is arbitrary, the petitioner is a poor lady and as per the valuation of the truck she is unable to furnish the Bank guarantee. Further argument of learned counsel for the petitioner is that after passing of the order dt. 28.1.2002 by the learned Collector, learned Judicial Magistrate First Class, Raipur vide judgment dated 18.11.2002 passed in Criminal Case No. 4/2002 (Annexure P/4) acquitted the accused persons of the charges under section 34(1)(2) of the Excise Act and section 25 of the Arms Act.

In view of the aforesaid submission made by learned counsel for the petitioner, this Court is of the opinion that the petitioner ought to have moved to the trial Court for releasing of the truck in question or to move before the Collector for modification of the order, if she so advised, as the judgment has been passed in the criminal case in which the truck in question was alleged to have been involved. More over the impugned order was for one year and the same has elapsed, and nothing has been mentioned about the present position.

With the above observation this petition stands disposed of finally. Consequently M(W)P No. 1738/2004 and I.A.No. 4532/2004 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

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